

REMARKS

Claims 1-9, 19, 20, 22-24, 39, 40, 42-61, and 64 are now pending in the application upon admission of new claim 64. Claims 1, 6, 19, 47 and 58 have been amended. Claims 10-18, 21, 25-38, 41, and 62-63 are canceled. The Examiner is respectfully requested to reconsider and withdraw the rejections in view of the amendments and remarks contained herein.

EXAMINER INTERVIEW

Applicants would like to thank Examiners Tyson and Ho for the courtesy extended to Applicants' representative, Brian Hollis during a telephonic interview on September 9, 2008. During this interview, Applicants' representative and the Examiners discussed U.S. Pat. No. 6,139,565 (Stone) in view of the pending claims of record. In one point of discussion, Applicants' representative discussed the relationship of the shoulder (feature 17) of the anchor in Stone and more specifically how it relates geometrically to the threaded portion of the anchor 12 in Stone. Applicants' representative discussed the geometrical relationship of the shoulder 17 relative to the threaded portion as it is set forth in column 6 of Stone. In sum, the shoulder 17 has a diameter that extends beyond a diameter of the threads. As a result, the shoulder 17 functions to stop insertion of the anchor into the bone beyond the shoulder 17. The claim amendments to independent claims 1, 19 and 47 reflect the Examiners' suggestions and discussion. The Examiners have agreed that these amendments define over the current art rejections. If it is determined that these amendments do not place all claims in condition for allowance, Applicants' representative invites Examiners

Tyson and Ho to contact the undersigned via telephone in an effort to expedite prosecution.

CLAIM OBJECTIONS

Claim 58 stands objected to because of a typographical error. Applicants have corrected this informality according to the Examiner's suggestion.

REJECTION UNDER 35 U.S.C. §112

Claim 63 stand rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point and distinctly claim the subject matter, which Applicants regard as the invention. This rejection is respectfully traversed.

Applicants have canceled claim 63 rendering this rejection moot. Therefore, reconsideration and withdrawal of this rejection is respectfully requested.

REJECTIONS UNDER 35 U.S.C. §102

Claims 1-9, 19, 20, 22-24, 39, 40 and 42-61 stand rejected under 35 U.S.C. §102(b) as being anticipated by Stone et al. (U.S. Pat. No. 6,139,565). This rejection is respectfully traversed.

Applicants note that claim 1 has been amended to include "a suture anchor, comprising... a suture engaging section extending from said bone engaging section to a terminal proximal end of the suture anchor and wherein an outermost annular surface of the suture engaging section defines a diameter less than or equal to said maximum

diameter, such that said suture engaging section is able to be substantially disposed below an exterior surface of a boney structure after implantation."

Applicants submit that Stone fails to provide such a suture anchor. Applicants have reproduced Figs. 11B, 11C, 12B and 12C of Stone immediately below for reference.

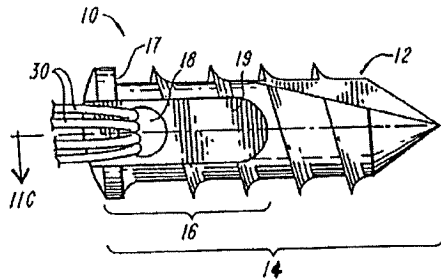


FIG. 11B

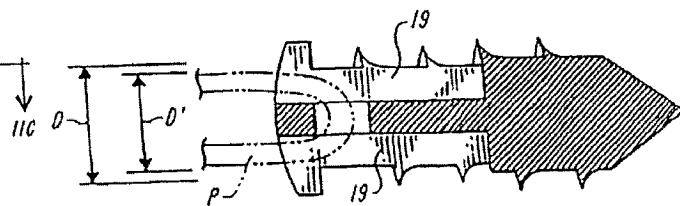


FIG. 11C

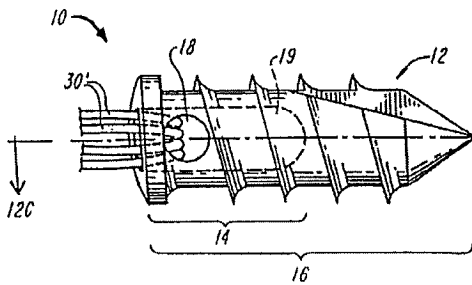


FIG. 12B

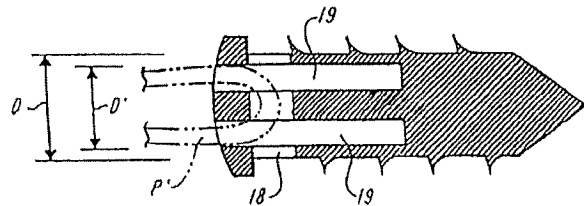


FIG. 12C

Stone discloses a suture anchor 10 having a shoulder 17 that:

"extends beyond the diameter D of the cylindrical member 12... thus, the shoulder 17 may consist of a set of discrete shoulder flanges, or may be a continuous portion of the top of the cylindrical member that extends beyond the diameter D. The shoulder 17, whether in the form of discrete flanges or a continuous extension portion, functions to stop insertion of the anchor assembly 10 into the bone beyond the shoulder 17. Thus, the shoulder 17 prevents a user from inserting the assembly 10 so far into the bone that the suture/driver portion 16 becomes lodged in the bone".

(See column 6, lines 5-17 of Stone)

Applicants submit that the anchor 10 of Stone, therefore, cannot provide "a suture engaging section extending from said bone engaging section and defining a diameter less

than or equal to said maximum diameter, such that said suture engaging section is able to be substantially disposed below an exterior surface of a bony structure after implantation" as provided in claim 1 of the instant disclosure. Applicants further submit that the configuration of Stone teaches an anchor configuration having a shoulder 17 that is specifically adapted to prevent being "substantially disposed below an exterior surface of a bony structure after implantation". Therefore, Applicants respectfully request reconsideration and withdrawal of this rejection as it pertains to claims 1 and dependent claims therefrom.

Turning now to claim 19, Applicants have amended claim 19 to provide a suture anchor comprising "a suture engaging section extending from said anatomical engaging section to a terminal proximal end of the suture anchor, the suture engaging section defining a radially outermost surface that is configured to be substantially disposed below an exterior surface of the selected anatomical portion after implantation". Applicants again refer to the above discussion and submit that Stone does not provide such a configuration. Applicants further submit that "a suture engaging section" of Stone must be defined from its threaded section all the way to and including the shoulder 17 to satisfy a suture engaging section "extending from said anatomical engaging section to a terminal proximal end of the suture anchor" as required by claim 19. With this in mind, a radially outermost surface of the shoulder 17 cannot be configured to be "substantially disposed below an exterior surface of a bony structure after implantation". Applicants again also submit that column 6, lines 5-17 of Stone specifically teaches away from this limitation provided in amended claim 19. Therefore, Applicants respectfully request reconsideration and withdrawal of this rejection as it pertains to claim 19 and dependent claims therefrom.

Claim 47 has been amended to include a suture anchor system comprising "a suture engaging portion extending from said bone engaging portion to an end surface of the suture anchor, said suture engaging portion defining a diameter less than or equal to said maximum diameter along the length of the suture engaging portion". As discussed above, the anchor configuration of Stone does not satisfy amended claim 47. Therefore, Applicants respectfully request reconsideration and withdrawal of this rejection as it pertains to claim 47 and dependent claims therefrom.

NEW CLAIM 64

Applicants have submitted new claim 64 for substantive examination. Applicants note that this new claim is directed toward the elected species and provides subject matter that is supported by the specification and drawings as originally filed. Applicants note that the subject matter of claim 64 is supported by at least Figs. 1-6 and paragraphs [0044] through [0045]. Applicants submit that new claim 64 provide additional features not taught or rendered obvious by the art of record.

CONCLUSION

It is believed that all of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. Applicant therefore respectfully requests that the Examiner reconsider and withdraw all presently outstanding rejections. It is believed that a full and complete response has been made to the outstanding Office Action and the present application is in condition for allowance.

Thus, prompt and favorable consideration of this amendment is respectfully requested. If the Examiner believes that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at (248) 641-1600.

Respectfully submitted,

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By: Richard W. Warner
Richard W. Warner, Reg. No. 38,043
Brian D. Hollis, Reg. No. 51,075

HARNESS, DICKEY & PIERCE, P.L.C.
P.O. Box 828
Bloomfield Hills, Michigan 48303
(248) 641-1600